

Serial No. 10/708,826
Attorney Docket No. 60655.8700

REMARKS

Applicants reply to the Office Action mailed on November 28, 2005, within the shortened statutory period for reply. Claims 1-47 were pending and the Examiner rejects claims 1-47. In reply, Applicants amend claims 1,3, 7-12, 16, 19-29, 32-39, 41, 43, and 45-47, add claims 48-54, and address the Examiner's remarks. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

Claim Rejections

§112 Rejections

Claim 1-47 stand rejected under 35 U.S.C. §112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner indicates that the term "said system comprising" in claim 1 is confusing and unclear. Applicants amend claim 1 to clarify that "said system" refers only to the transponder-reader system.

Regarding the term "finite number" in claims 3 and 39, Applicants amend claims 3 and 39 to clarify that the detecting may include "receiving a limited number" of biometric samples.

Applicants amend claim 7 to recite "said database" instead of "said remote database" to ensure proper antecedent basis.

Regarding claim 16, the terms "primarily," "secondarily," "first user information" and "second user information" are defined and examples thereof provided in the specification in at least paragraphs [00155]-[00158]. The first and second user information may be separate accounts of an individual user or may be separate accounts of separate users.

For example, paragraph [00156] discloses:

The fob user information may also contain information about the user including personal information--such as name, address, and contact details; financial information--such as one or more financial accounts associated with the fob user; loyalty point information--such as one or more loyalty point accounts (e.g., airline miles, charge card loyalty points, frequent diner points) associated with the fob user; and/or non-financial information--such as employee information, employer information, medical information, family information, and/or other information that may be used in accordance with a fob user.

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Similarly, paragraph [00156] discloses:

By "primarily" associating a sample with an account, the system initially associates the sample with that account. For example, fob user submitting his right index fingerprint for a financial transaction may have money for the transaction taken from his credit card account. Fob user may additionally specify which accounts should be secondarily associated with a sample.

Regarding use of the term "mutual authentication" in claim 17, at least paragraph [0022] of the specification clarifies that:

In one exemplary embodiment, as a part of the identification process, the fob and the RFID reader may engage in mutual authentication. The RFID reader may identify the fob as including an authorized system transponder for receiving encrypted information and storing the information on the fob memory. Similarly, the fob, upon interrogation by the RFID reader, may identify the RFID reader as authorized to receive the encrypted and stored information. Where the RFID reader and the fob successfully mutually authenticate, the fob may transmit to the RFID reader certain information identifying the transaction account or accounts to which the fob is associated.

Applicants amend claims 20-21 to clarify that the "device is configured to facilitate the use of at least a secondary security procedure." Paragraph [00168] provides examples of secondary security procedures:

[00168] Fob 102 may additionally be configured with secondary security procedures to confirm that fake biometric samples are not being used. For example, to detect the use of fake fingers, fob 102 may be further configured to measure blood flow, to check for correctly aligned ridges at the edges of the fingers, and/or any other secondary procedure to reduce biometric security fraud. Other security procedures for ensuring the authenticity of biometric samples may include monitoring pupil dilation for retinal and/or iris scans, pressure sensors, blinking sensors, human motion sensors, body heat sensors and/or any other procedures known in the art for authenticating the authenticity of biometric samples.

Applicants amend claims 22 and 35 to clarify that it is a "biometric sample" that is proffered to a biometric sensor, rendering moot the rejection of claims 22 and 35 and those claims that depend therefrom.

Accordingly, Applicants request withdrawal of the rejection of claims 1-47 under 35 U.S.C. § 112.

§103(a) Rejections

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Claims 1-8, 10-29, 32-43, and 45-47 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kita, U.S. Pat. No. 6,703,918 ("Kita") in view of Black, U.S. Pat. No. 6,307,956 ("Black"). Applicants respectfully traverse this rejection.

While Kita and Black may generally disclose use of biometric security measures with portable information devices, neither Kita, Black, nor any combination thereof, teaches or suggests at least a "device further configured to determine whether said transaction is in compliance with a preset transaction limitation associated with said facial scan sample," as recited in independent claim 1. (emphasis added). As requested by the Examiner, support for this amendment is found in the specification in at least paragraphs [00235]-[00238].

Accordingly, Applicants assert that claim 1 is patentable over the cited reference. Claims 2-8 and 10-21 variously depend from claim 1 and contain all of the elements thereof. Therefore, Applicants respectfully submit that claims 2-8 and 10-21 are differentiated from the cited reference at least for the same reasons as set forth above, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-8 and 10-21.

Similarly, neither Kita, Black, nor any combination thereof, teaches or suggests a method comprising at least "verification including determining whether said facial scan sample is associated with a preset transaction limitation," as recited in independent claim 22. (emphasis added). As requested by the Examiner, support for this amendment is found in the specification in at least paragraphs [00235]-[00238].

Accordingly, Applicants assert that claim 22 is patentable over the cited reference. Claims 23-29 and 32-34 variously depend from claim 22 and contain all of the elements thereof. Therefore, Applicants respectfully submit that claims 23-29 and 32-34 are differentiated from the cited reference at least for the same reasons as set forth above, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 22-29 and 32-34.

Similarly, neither Kita, Black, nor any combination thereof, teaches or suggests a method comprising at least "authorizing a transaction to proceed upon verification that said transaction is in compliance with a preset transaction limitation associated with said proffered facial scan sample," as recited in independent claim 35. (emphasis added). As requested by the Examiner, support for this amendment is found in the specification in at least paragraphs [00235]-[00238].

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Accordingly, Applicants assert that claim 35 is patentable over the cited reference. Claims 36-43 and 45-47 variously depend from claim 35 and contain all of the elements thereof. Therefore, Applicants respectfully submit that claims 36-43 and 45-47 are differentiated from the cited reference at least for the same reasons as set forth above, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 35-43 and 45-47.

Claims 9, 30-31 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kita in view of Black as applied to Claims 1, 28 and 43, and in further view of Prokoski, U.S. Pat. No. 6,496,594 ("Prokoski"). Applicants respectfully traverse this rejection.

Claims 9, 30-31 and 44 variously depend from claims 1, 22, and 35 and contain all of the respective elements thereof. Therefore, Applicants respectfully submit that claims 9, 30-31 and 44 are differentiated from the cited reference at least for the same reasons as set forth above, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 9, 30-31 and 44.

New Claims

New claims 48-54 variously depend from claims 1, 22, and 35 and contain all of the respective elements thereof. Therefore, Applicants assert that new claims 48-53 are differentiated from the cited references at least for the same reasons as set forth above, in addition to their own respective features.

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CONCLUSION

Applicants respectfully submit that the pending claims (54 total, 3 independent) are in condition for allowance. No new matter is added in this Reply. Reconsideration of the application is thus requested. The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account No. 19-2814. Applicants invite the Examiner to telephone the undersigned if the Examiner has any questions regarding this Reply or the application in general.

Respectfully submitted,

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